

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CASE NO. 14-MC-50983
HONORABLE GEORGE CARAM STEEH

ERNEST GARNER,

Defendant,

and

STATE OF MICHIGAN,

Garnishee.

ORDER DENYING DEFENDANT'S REQUEST
FOR HEARING ABOUT THE GARNISHMENT
AND CLAIM FOR EXEMPTIONS (DOC. #4)

Defendant pleaded guilty to one count of Theft of Mail in violation of 18 U.S.C. § 1708, and was sentenced to a period of imprisonment for six months and ordered to pay \$177,916.97 in restitution. *See United States v. Ernest Garner, 13-CR-20493 (Doc. 11).* On July 24, 2014, the government filed a writ of continuing garnishment with the Michigan Department of Treasury Third Party Withholding Unit, requesting “whether or not you have in your custody, control or possession, any property owned by the debtor [defendant], including non-exempt, disposable earnings.” The government seeks to garnish any income, tax refunds or other payments due to the defendant from the state of Michigan. The matter is before the court on defendant’s request for a hearing about the garnishment and his claim for exemptions. Defendant does not state a reason why he requests a

hearing, but he checked all 11 form exemptions from garnishment under 18 U.S.C. § 3613 as grounds for challenging the garnishment (Doc. 4).

The government responds that defendant is not entitled to a hearing because (1) he failed to state any reason to support his request; and (2) defendant's blanket claim of every exemption under 18 U.S.C. § 3613 is without merit.

The government's position is well-taken. A judgment debtor who challenges a writ of garnishment has the burden of establishing entitlement to an exemption. *United States v. Sawaf*, 74 F.3d 119, 122 (6th Cir. 1996). A tax refund, based on taxes withheld as the result of employment, are not exempt from garnishment. *United States v. Henderson*, No. 13-CV-15146, 2014 WL 4209936, at *1 (E.D. Mich. Aug. 26, 2014). The defendant has not raised a valid exemption or alleged failure to comply with statutory requirements, and, therefore, is not entitled to a hearing.

IT IS SO ORDERED.

Dated: September 17, 2014

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on September 17, 2014, by electronic and/or ordinary mail and also on Ernest Tommie Garner, 30245 Matthew, Westland, MI 48186.

s/Barbara Radke
Deputy Clerk